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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/723,319
Filing Date: November 27, 2000
Appellant(s): THOMPSON ET AL.

Thompson et al.
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed on 28 December 2009 appealing from the Office action mailed on 25 November 2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

US 6,587,831 B1	O'Brien	7-2003
US 6,957,188 B1	Dellevi et al.,	10-2005
Moseley et al., Office 97: Professional Edition 1997		

Official Notice - Claims 1, 14, 19 and 43 as evidenced by Amin et al., (US 6,208,340 B1)

3-2001

- Claims 2, 4, 6, 22, 23 and 24 (see the response below)

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-11, 13-14, 17-30, 32-43, and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Brien (U.S. 6,587,831) in view of Dellevi et al. (U.S. 6,957,188) and in further both view of Moseley et al. (Office 97: Professional Edition) and Official Notice (as evidenced by Amin et al., US 6,208,340 B1).

As per **claim 1**, O'Brien discloses a resource management system comprising:

a work plan builder module configured to build work plans for workers, said work plan builder module being configured to allow each worker to specify, for each of a plurality of different time periods during each of one or more workdays, one of a plurality of different activities that the worker plans to perform during that time period (See figures 2,2A, 2B, and 5, column 2, lines 15-35,

column 4, lines 10-26 and 45-65, column 7, lines 1-10 and 17-35, and column 8, lines 38-52, wherein a work plan builder allows each worker to specify for different time periods on work days different activities the worker plans to do (work a shift, take leave, etc.))

said work plan builder module is configured to permit each worker to specify different activities that the worker plans to perform during different time periods of the same work day (See column 2, lines 15-35, column 4, lines 10-26 and 45-65, column 7, lines 1-10 and 17-35, and column 8, lines 38-52, wherein each worker enters information specifying availability and shift requests (i.e. when a worker wants to work a shift), leave requests (when a worker wants to take leave, such as days off), etc. for time periods during one or more workdays. Leave requests, shift request, etc. are all activities specified by the user);

a computer accessible memory for storing the work plans built by said work plan builder module (See figure 3, column 3, lines 24-40, column 4, lines 50-67, and column 5, lines 1-5, which discloses computer accessible memory storing work plans); and

a forecast module for comparing the stored work plans with forecast needs and changing the specified activities' for one or more of the workers based on the comparing (See column 1, lines 45-57, column 5, lines 5-30 and 48-67, and column 6, lines 1-20, which discloses forecasting and revisions. See column 1, lines 45-65, column 2, lines 5-32, column 3, lines 25- 50, column 4 lines 30-60, column 5, lines 5-40, column 6, lines 5-17, and column 7, lines 5-1 5 and 20-40,

wherein the schedule is based on comparing the identified work plans of the worker and the forecast of worker need).

However, O'Brien does not expressly disclose that the work plan builder module is configured to permit each worker to specify by selection from a displayed list of work activities two or more different work activities that the worker plans to perform during different time periods of the same work day. Further, O'Brien does not expressly disclose comparing a service level forecasted to be needed for different work activities and a service level corresponding to the workers that plan to engage in these different work activities as specified in the work plans and permitting changes to the work activities specified in the work plans for one or more workers based on the comparing.

Dellevi et al. discloses comparing a service level forecasted to be needed for different work activities and a service level corresponding to the workers that plan to engage in these different work activities as specified in the work plans and permitting changes to the work activities specified in the work plans for one or more workers based on the comparing (See column 1 , lines 55-65, column 2, lines 18-30, column 3, lines 40-57, and column 6, lines 5-20, wherein a performance level for work anticipated to be needed for work area functions are , defined and wherein workers has associated with them Employee Training Records .that coincide with the performance level forecasts. Changes to the work activities (and the workers who are supposed to perform the work activities) are allowed based on comparing workers levels with the activity's levels). However,

Dellevi et al does not expressly disclose that the work plan builder module is configured to permit each worker to specify by selection from a displayed list of work activities two or more different work activities that the worker plans to perform during different time periods of the same work day. Moseley et al. teaches building work plans for workers, allowing each worker to specify, for each of a plurality of different time periods during each of one or more workdays, one of a plurality of different activities that the worker plans to perform during that time period, wherein said work plan builder module is configured to permit each worker to specify two or more different work activities that the worker plans to perform during different time periods of the same work day (See pages 783-6, 787-8, wherein outlook has a function used to schedule an individual's time and helps the-individual manage appointments, events, tasks, and meetings. The calendar shows different time periods during each of multiple workdays. The individual is able to enter what he/she plans on performing during time periods of the day. The worker can specify different work activities and tasks, such as meetings, appointments, finish reports, etc. The worker is able to enter any subject/title for the activity, meeting, or task that he/she chooses. See page 797 and figure 35.14, wherein the activities includes a time when the worker is out of the office. See page 8, 788, 798, and figures 35.5 and 35.11, wherein the programs of outlook are office programs and thus are stored in memory).

Both O'Brien and Dellevi et al allow changes to be made to the schedule. Dellevi et al, discloses the ability to change work plans based on comparisons of

levels associate with workers and activities. It would have been obvious to use the change techniques of Dellevi et al.'s shift trading system in the online shift scheduling and management system of O'Brien in order to more accurately allow changes to occur to a schedule based on relevant comparisons.

Further, O'Brien discloses developing a work plan for workers who perform various activities at various time periods, where the employee can request the activities of shifts, vacation, etc. in this schedule. Moseley et al. discloses a scheduling program that helps workers or individuals manage their time by placing work activities (i.e. appointments, events, tasks, and meetings) onto the schedule to keep track of these items. It would have been obvious to one of ordinary skill in the art at the time of the invention to include at least two work activities of Moseley et al. in the shifts on the schedule of O'Brien in order to more efficiently organize a schedule, enabling an individual to more effectively keep track of increasing complicated schedule. See page 783.

O'Brien, Dellevi et al., and Moseley et al., does not expressly teach that the work plan builder module is configured to permit each worker to specify by selection from a displayed list of work activities two or more different work activities. Both O'Brien and Dellevi et al. disclose a shift scheduling system that maintains work plans for workers who perform various activities at various time periods, where the employee can request the activities of shifts, vacation, etc. in this schedule. Moseley et al. discloses a scheduling program that helps workers or individuals manage their time by placing work activities (i.e. appointments,

events, tasks, and meetings) onto the schedule to keep track of these items. However, Examiner takes Official Notice that is old and well known in graphical user interface art and to one of the ordinary skill in the art to display a list (e.g., a drop-down widget) with a plurality of choices (e.g., work activities) as evidenced by Amin et al., (US 6, 208,340 B1) in Figures 3 and 4 which they illustrates a drop-down widget that allow a user to select multiple choices from the drop down list.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine O'Brien, Dellevi et al., and Moseley with the old and well-known practice of displaying a list (e.g., a drop-down widget) with a plurality of choices (e.g., work activities) as evidenced by Amin et al, thereby giving the predictable result of enabling a user (e.g., a worker) through a user friendly environment to select multiple choices of two or more different work activities.

As per **claim 2**, O'Brien teaches a resource management system wherein the plurality of different activities include answering telephone calls (See at least column 2, lines 64-67, column 3, lines 1-5, and column 5, lines 10-22, wherein the different work shift activities include answering phone calls). However, O'Brien does not expressly disclose activities including answering electronic mail messages and answering regular mail messages, nor does Dellevi et al.

Moseley et al. teaches wherein the plurality of different work activities include any activity or event that the individual chooses to enter into the work

plan schedule (See pages 783- 6, 787-8, wherein outlook has a function used to schedule an individual's time and helps the individual manage appointments, events, tasks, and meetings. The calendar shows different time periods during each of multiple workdays. The individual is able to enter what he/she plans on performing during time periods of the day. The worker can specify different work activities and tasks, such as meetings, appointments, finish reports, etc. The worker is able to enter any subject/title for the activity, meeting, or task that he/she chooses). However, Moseley et al. does not expressly disclose the activities answering electronic messages or answering regular mail messages.

O'Brien and Dellevi et al. are combinable for the reasons set forth above. Both O'Brien and Moseley disclose scheduling systems that allow people to build work plans. O'Brien discloses developing a work plan for workers performing various activities at various time periods, wherein the activities are at a telephone call center as a preferred environment, but may be applied to any environment for scheduling. .Moseley et al. discloses a scheduling program ' that helps workers or individuals manage their time by placing appointments, events, tasks, and meetings onto the schedule to keep track of these items. Examiner takes official notice that answering electronic mail messages and regular mail messages are all well known job activities performed by workers. Examiner points out that the system of Moseley et al. is capable of placing any label or title of a task, activity, appointment, or meeting on the schedule for time management reasons. Therefore, it would have been obvious to one of ordinary skill in the art

at the time of the invention to include answering electronic mail messages and answering regular mail messages as work activities in the system of O'Brien in order to more efficiently organize a schedule (that includes all possible activities and tasks that must be accomplished), enabling an individual to more effectively keep track of increasing complicated schedule. See page 783

As per **claim 3**, O'Brien discloses a resource management system wherein the plurality of different activities further include vacation time (See at least figures 2, 2A, 2B, and 5, column 2, lines 15-35 and 64-67, column 4, lines 10-26 and 45-65, column 7, lines 1-10 and 17-35, and column 8, lines 38-52, wherein the employee can request vacation time).

As per **claim 4**, O'Brien discloses a resource management system wherein the work plan builder module is configured to selectively communicate to each worker data indicative of the approval of vacation time and the work plan builder module is configured to allow the worker to access the work plan builder and view records concerning the worker (See at least figures 2, 2A, 2B, and 5, column 2, lines 15-35 and 64-67; column 3, lines 25-50, column 4, lines 10-26 and 45-65, column 7, lines 1-10 and 17-35, and column 8, lines 38-52, wherein the work plan builder module communicates to the worker if he/she is approved for vacation time and the ability for the worker to access the work plan builder).

However, neither O'Brien, Dellevi et al., nor Moseley et al. expressly discloses selectively communicating data indicative of the vacation time remaining for that worker.

Dellevi et al., Moseley et al., and O'Brien are combinable for the reasons set forth above. Further, all of O'Brien, Moseley et al., and Dellevi et al. all teach computer-based schedule management tools that allow users to build work plans and schedules and indicate when they are in and out of work. Both O'Brien and Dellevi et al. both teach allowing employees to access data concerning leave over a network. Further, examiner takes official notice that it is old and well known in Human Resources management to communicate to a worker the amount of leave they have remaining in their work account. It would have been obvious to one of ordinary skill in the art at the time of the invention to include the vacation time remaining for a worker in the viewable data accessible by the worker of O'Brien as in order to increase the user friendliness of the system by providing up-to-date and reliable information concerning the employee's leave and schedule. See column 1, lines 45-67, and column 2, lines 1-32, of O'Brien, which discusses the importance of communicating up to date and accurate information to workers.

As per **claim 5**, O'Brien teaches a resource management system wherein the plurality of activities further includes leave (See at least figures 2, 2A, 2B, and 5, column 2, lines 15-35 and 64-67, column 3, lines 25-50, column 4, lines 10-26 and 45-65, column 7, lines 1-10 and 17-35, and column 8, lines 38-52, wherein the work plan builder module considers leave requests). However, O'Brien does not expressly disclose sick time.

Dellevi et al. discloses sick time (See column 6, lines 34-35; disclosing sick leave).

Dellevi et al. and O'Brien are combinable for the reasons set forth above. Further, all of O'Brien and Dellevi et al. all teach computer-based schedule management tools that allow users to build work plans and schedules and indicate when they are in and out of work. Both O'Brien and Dellevi et al. both teach allowing employees to access data concerning leave over a network. It would have been obvious to one of ordinary skill in the art at the time of the invention to include sick time in the leave taught by O'Brien in order to more accurately represent the work needs of employees.

As per **claim 6**, O'Brien teaches a resource management system wherein the plurality of activities includes leave (See at least figures 2, 2A, 2B, and 5, column 2, lines 15-35 and 64-67, column 3, lines 25-50, column 4, lines 10-26 and 45-65, column 7, lines 1-10 and 17-35, and column 8, lines 38-52, wherein the work plan builder module considers leave requests).

O'Brien further discloses a resource management system wherein the work plan builder module is configured to selectively communicate to each worker data indicative of the approval of leave time and the work plan builder module is configured to allow the worker to access the work plan builder and view records concerning the worker (See at least figures 2, 2A, 2B, and 5, column 2, lines 15-35 and 64-67, column 3, lines 25-50, column 4, lines 10-26 and 45-65, column 7, lines 1-10 and 17-35, and column 8, lines 38-52, wherein

the work plan builder module communicates to the worker if he/she is approved for vacation time and the ability for the worker to access the work plan builder).

However, O'Brien does not expressly disclose that this leave is sick time or selectively communicating data indicative of the sick time remaining for that worker.

Dellevi et al. discloses sick time (See column 6, lines 34-35, disclosing sick leave).

However, neither Dellevi et al. nor Moseley et al. expressly disclose selectively communicating data indicative of the sick time remaining for that worker.

Dellevi et al., Moseley et al., and O'Brien are combinable for the reasons set forth above. Further, all of O'Brien, Moseley et al., and Dellevi et al, all teach computer-based schedule management tools that allow users to build work plans and schedules and indicate when they are in and out of work. Both O'Brien and Dellevi et al. both teach allowing employees to access data concerning leave over a network. Further, examiner takes official notice that it is old and well known in Human Resources management to communicate to a worker the amount of leave they have remaining in their work account. It would have been obvious to one of ordinary skill in the art at the time of the invention to include sick time and the sick time remaining for a-worker in the viewable data accessible by the worker of O'Brien as in order to increase the user friendliness of the system by providing up-to-date and reliable information concerning the

employee's leave and schedule. See column 1, lines 45-67, and column 2, lines 1-32, of O'Brien, which discusses the importance of communicating up to date and accurate information to workers.

As per **claim 7**, O'Brien teaches a resource management system wherein the memory is part of a system server computer and the work plan module is a client process executed on a computer located remotely with respect to the system server computer (See figure 1, and column 3, lines 15-60, which discuss the architecture of the system).

As per **claim 8**, O'Brien teaches a resource management system wherein said work plan builder module is configured to generate and send messages to workers and to generate a work plan using data input by the worker by the time of the generation (See at least figures 2, 2A, 2B, and 5, column 2, lines 15-35 and 64-67, column 4, lines 10-26 and 45-65, column 6, lines 50-67, column 7, lines 1 - 10 and 17-35, and column 8, lines 38-52, wherein messages and notifications are sent to workers and wherein the work plan is generated using data entered and stored by the workers before the building of the schedule). However, none of O'Brien, Dellevi et al, or Moseley et al. expressly disclose sending the notification if the worker does not specify a plan by a work plan deadline.

Moseley et al, Dellevi et al., and O'Brien are combinable for the reasons set forth above. Further, O'Brien discloses a computer-based tool wherein messages and notifications are sent to workers and wherein a work plan is

generated using data entered and stored by the workers before the building of the schedule. It is well known that an employee must specify to an employer his/her work plans by a particular deadline. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to send the worker a message if the worker did not specify a plan by a work plan deadline in order to more efficiently create schedules by using the most accurate information so revisions need not occur. See at least column 1, lines 45-67, column 2, lines 1-32, and column 6, lines 52-67.

As per **claim 9**, O'Brien discloses a resource management system further comprising: a supervision module configured to access the work plans stored in said memory and to allow review of the work plans by supervisors (See figures 2, 5, column 2, lines 15-35, column 3, lines 25-50, column 4, lines 25-27 and 45-65, column 6, lines 44-50,' and column 8, lines 38-52, wherein a manager module has access to data indicative of all workers that plan to perform a particular activity during a particular time period. The manager can review this data).

As per **claim 10**, O'Brien teaches a resource management system wherein the supervision module is configured to communicate data indicative of all workers that plan to perform a particular activity during a particular time period (See figures 2, 5, column 2, lines 15-35, column 3, lines 25-50, column 4, lines 10-27 and 45-65, column 6, lines 44-50, and column 8, lines 38-52, wherein a manager module has access to data indicative of all. workers that plan to perform a particular activity during a particular time period).

As per **claim 11**, O'Brien discloses a resource management system wherein the supervision module is configured to communicate data indicative of total amounts of time that workers plan to perform particular activities (See figures 2, and 5, column 2, lines 15-35, column 3, lines 25-50, column 4, lines 10-27 and 45-65, column 6, lines 18-30, and column 8, lines 38- 52, wherein a manager module is configure to communicate data indicative of total amounts of time that workers plan to perform particular activities).

As per **claim 13**, O'Brien discloses a resource management system wherein said forecast module is configured to generate a graphical display indicative of the comparison of the work plans and the forecasted needs (See column 1, lines 45-57, column 3, lines 25-40, column 5, lines 5-30 and 48-67, and column 6, lines 1-20, which discloses graphical displays indicative of the comparison performed of the plan and the needs).

As per **claim 14**, O'Brien teaches a method of managing resources comprising:

receiving from each of a plurality of workers a work plan in which the worker specifies, for each of a plurality of different time periods during each of one or more workdays, one of a plurality of different activities that the worker plans to perform during that time period (See figures 2,2A, 2B, and 5, column 2, lines 15-35 and 64-67, column 4, lines 10-26 and 45-65, column 7, lines 1- 10 and 17-35, and column 8, lines 38-52, wherein a work plan builder allows each

worker to specify for different time period different activities the worker plans to do (work a shift, take leave, swap, etc.);

said work plan builder module is configured to permit each worker to specify different activities that the worker plans to perform during different time periods of the same work day (See column 2, lines 15-35, column 4, lines 10-26 and 45-65, column 7, lines 1-10 and 17-35, and column 8, lines 38-52, wherein each worker enters information specifying availability and shift requests (i.e. when a worker wants to work a shift), leave requests (when a worker wants to take leave, such as days off), etc. for time periods during one or more workdays. Leave requests, shift request, etc. are all activities specified by the user);

storing in a computer-accessible memory received work plans (See figure 3, column 3, lines 24-40, column 4, lines 50-67, and column 5, lines 1-5, which discloses computer accessible memory storing work plans); and

comparing the stored work plans with forecast needs and changing the specified activities for one or more of the workers based on the comparing (See column 1, lines 45-57, column 5, lines 5-30 and 48-67, and column 6, lines 1-20, which discloses forecasting and revisions. See column 1, lines 45-65, column 2, lines 5-32, column 3, lines 25-50, column 4 lines 30-60, column 5, lines 5-40, column 6, lines 5-17, and column 7, lines 51-5 and 20-40, wherein the schedule is based on comparing the identified work plans of the worker and the forecast of worker need).

However, O'Brien does not expressly disclose by selecting from a displayed list of work activities, wherein the work plan for at least on the workers specifies two or more different work activities that the worker plans to perform during different time periods of the same work day. Further, O'Brien does not expressly disclose comparing a service level forecasted to be needed for different work activities and a service level corresponding to the workers that plan to engage in these different work activities as specified in the work plans and permitting changes to the work activities specified in the work plans for one or more workers based on the comparing.

Dellevi et al. discloses comparing a service level forecasted to be needed for different work activities and a service level corresponding to the workers that plan to engage in these different work activities as specified in the work plans and permitting changes to the work activities specified in the work plans for one or more workers based on the comparing (See column 1, lines 55-65, column 2, lines 18-30, column 3, lines 40-57, and column 6, lines 5-20, wherein a performance level for work anticipated to be needed for work area functions are defined and wherein workers has associated with them Employee Training Records that coincide with the performance level forecasts. Changes to the work activities (and the workers who are supposed to perform the work activities) are allowed based on comparing a worker's levels with the activity's levels). However, Dellevi et al does not expressly disclose by selecting from a displayed list of work activities, wherein the work plan for at least on the workers specifies

two or more different work activities that the worker plans to perform during different time periods of the same work day.

Moseley et al. teaches building work plans for workers, allowing each worker to specify, for each of a plurality of different time periods during each of one or more workdays, one of a plurality of different activities that the worker plans to perform during that time period, wherein said work plan builder module is configured to permit each worker to specify two or more different work activities that the worker plans to perform during different time periods of the same work day (See pages 783-6, 787-8, wherein outlook has a function used to schedule an individual's time and helps the individual manage appointments, events, tasks, and meetings. The calendar shows different time periods during each of multiple workdays. The individual is able to enter what he/she plans on performing during time periods of the day. The worker can specify different work activities and tasks, such as meetings, appointments, finish reports, etc. The worker is able to enter any subject/title for the activity, meeting, or task that he/she chooses. See page 797 and figure 35.14, wherein the activities includes a time when the worker is out of the office. See page 8, 788, 798, and figures 35.5 and 35.1 1, wherein the programs of outlook are office programs and thus are stored in memory)

Both O'Brien and Dellevi et al allow changes to be made to the schedule. Dellevi et al. discloses the ability to change work plans based on comparisons of levels associate with workers and activities. It would have been obvious to use

the change techniques of Dellevi et al.'s shift trading system in the online shift scheduling and management system of O'Brien in order to more accurately allow changes to occur to a schedule based on relevant comparisons.

Further, O'Brien also discloses developing a work plan for workers who perform various activities at various time periods, where the employee can request the activities of shifts, vacation, etc. in this schedule. Moseley et al. discloses a scheduling program that helps workers or individuals manage their time by placing work activities (i.e. appointments, events, tasks, and meetings) onto the schedule to keep track of these items. It would have been obvious to one of ordinary skill in the art at the time of the invention to include at least two work activities of Moseley et al. in the shifts on the schedule of O'Brien in order to more efficiently organize a schedule, enabling an individual to more effectively keep track of increasing complicated schedule. See page 783.

O'Brien, Dellevi et al., and Moseley et al., does not expressly teach that the work plan builder module is configured to permit each worker to specify by selection from a displayed list of work activities two or more different work activities. Both O'Brien and Dellevi et al. disclose a shift scheduling system that maintains work plans for workers who perform various activities at various time periods, where the employee can request the activities of shifts, vacation, etc. in this schedule. Moseley et al. discloses a scheduling program that helps workers or individuals manage their time by placing work activities (i.e. appointments, events, tasks, and meetings) onto the schedule to keep track of these items.

However, Examiner takes Official Notice that is old and well known in graphical user interface art and to one of the ordinary skill in the art to display a list (e.g., a drop-down widget) with a plurality of choices (e.g., work activities) as evidenced by Amin et al., (US 6, 208,340 B1) in Figures 3 and 4 which they illustrates a drop-down widget that allow a user to select multiple choices from the drop down list. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine O'Brien, Dellevi et al., and Moseley with the old and well-known practice of displaying a list (e.g., a drop-down widget) with a plurality of choices (e.g., work activities) thereby giving the predictable result of enabling a user (e.g., a worker) through a user friendly environment to select multiple choices of two or more different work activities.

As per **claim 17**, O'Brien teaches a resource management system wherein: the workers specify activities for the time periods via an interface comprising cells arranged in rows and columns, each cell representing a particular time period for a particular workday (See figures 2, 2A, 2B, and 5, column 2, lines 15-35, column 4, lines 10-26 and 45-65, column 6, lines 25-45, column 7, lines 1-10 and 17-35, and column 8, lines 38-52, wherein the workers specify activities).

Claim 18 recites equivalent limitations to claim 17 and is therefore rejected using the same art and rationale relied upon above.

Claim 19 recites equivalent limitations to claim 1 and is therefore rejected using the same art and rationale relied upon above.

Claim 20 recites equivalent limitations to claim 17 and is therefore rejected using the same art and rationale relied upon above.

Claim 21 recites equivalent limitations to claims 3 and 5 and is therefore rejected using the same art and rationale relied upon above.

Claim 22 recites equivalent limitations to 2 and is therefore rejected using the same art and rationale relied upon above.

Claims 23 and 24 recite equivalent limitations to claims 4 and 6, respectively, and are therefore rejected using the same art and rationale relied upon above.

As per **claim 25**, O'Brien teaches wherein the work plan builder module enables each worker to generate a default work plan that specifies, for each of a plurality of different time periods during each of one or more workdays, one of a plurality of different activities that the worker plans to engage in during that time period and to generate a new work plan by modifying the default work plan (See figures 2, 2A, 2B, and 5, column 2, lines 15-35, column 4, lines 10-26 and 45-65, column 7, lines 1-10 and 17-35, and column 8, lines 38-52, wherein the worker specifies his/her parameters for the work schedule to include working, on leave, etc. The template schedule assumes working if not otherwise indicated).

As per **claim 26**, O'Brien teaches computer-readable storage being configured for remote access by the workers over a communication network (See figure 1, column 1, lines 58-65, column 2, lines 5-15, and column 3, lines 5-30).

As per **claims 27-29**, O'Brien discloses remote access by the workers over a communication network (See at least figure 1, column 1, lines 58-65, column 2, lines 5-15, and column 3, lines 5-30). However, none of O'Brien, Dellevi et al, or Moseley et al. expressly disclose the networks of a wireless communication device, a kiosk accessible to a plurality of workers, a hand-held computing device.

O'Brien, Dellevi et al., and Moseley et al. disclose scheduling systems that are implemented over communications networks. Examiner takes official notice that wireless devices, kiosks, and handheld computing devices were all well-known remote terminals connectible to a communications network at the time of the invention. It would have been obvious to one of ordinary skill in the art at the time of the invention to use a wireless device, kiosk, or handheld computing device as the device that remotely accesses the communications network of O'Brien or Moseley et al. in order to more efficiently receive and provide scheduling information between workers and managers. See at least column 1, lines 1-20 and 35-40.

As per **claim 30**, O'Brien disclose wherein the one or more computer-executable modules further include a real-time status module for providing real-time statistics regarding activities that the workers are currently engaged in (See column 5, lines 10-37 and 50-67, column 6, lines 1-25 and 44-65, wherein the system tracks activity at a current time (workload) and compares it to the current schedule).

Claims 32, 33, 35, and 36 recite equivalent limitations to claims 13, 9, 10, and 11, respectively, and are therefore rejected using the same art and rationale as relied upon above.

As per **claim 34**, O'Brien teaches wherein the supervision module enables the supervisor to enter work plans for one or more workers (See figures 2, 2A, 2B, and 5, column 2, lines 15- 35, column 3, lines 25-50, column 4, lines 10-26 and 45-65, column 6, lines 18-30, and column 8, lines 38-52).

As per **claim 37**, O'Brien teaches wherein the one or more computer-executable modules further include a current day activity monitor module for providing a real-time comparison between a service level corresponding to current real-time work activities and a service level provided by those workers engaged in these work activities during the current time period (See column 5, lines 10-37 and 50-67, column 6, lines 1-25 and 44-65, wherein the system tracks activity at a current time (workload) and compares it to the current schedule).

As per **claim 38**, O'Brien wherein the current day activity module is configured to generate one or more graphical displays indicative of the comparison (See at least figure 2-2B, 1 column 1, lines 45-57, column 5, lines 5-37 and 48-67, and column 6, lines 1-40 and 44-65, wherein a revised schedule is determined for the current day and displayed to the user).

As per **claim 39**, O'Brien discloses wherein the current day activity monitor module is configured to determine when a difference between the

service level corresponding to current real-time work activities and the service level provided by those workers engaged in these work activities during the current time period exceeds a predetermined level (See column 5, lines 10- 37 and 50-67, column 6, lines 1-25 and 44-65).

As per **claim 40**, O'Brien teaches wherein the current day activity monitor module is further configured to automatically perform one or more actions if the difference exceeds the predetermined level (See column 5, lines 10-37 and 50-67, column 6, lines 1-25 and 44-65, wherein the system is configured to regenerate a schedule is the level is exceeded).

As per **claim 41**, O'Brien discloses wherein one or more actions includes instructing one or more workers to change the activity in which these workers are currently engaged (See column 5, lines 10-37 and 50-67, column 6, lines 1-25 and 44-67, and column 7, lines 1-10, wherein the worker is told to change the activity of the schedule).

As per **claim 42**, O'Brien teaches a resource management system comprising computer-readable storage according to claim 19 (See figures 2, 2A, 2B, and 5, column 2, lines 15-35, column 4, lines 10-26 and 45-65, column 7, lines 1-10 and 17-35, and column 8, lines 38-52).

Claim 43 recites equivalent limitations to claim 14 and is therefore rejected using the same art and rationale set forth above.

Claim 46 recites equivalent limitations to claim 17 and is therefore rejected using the same art and rationale as relied upon above.

(10) Response to Argument

In the Appeal Brief, Appellant presents the following arguments:

Claims 1, 3, 5, 7, 9-11, 14, 17-21, 26-29, 33-36, 42-43 and 46

- 1) None of these “employee references” involves workers specifying, for each of a plurality of different activities that the worker plans to perform during that time period. There is no disclosure in O'Brien that leave is specified for each of a plurality of time periods during a workday. Finally, shift swapping does not involve specifying particular activities during a workday. These figures (2A and 2B) do not disclose or suggest the concept of the workers specifying the activities in which they plan to engage during a plurality of time periods.
- 2) There is no disclosure in O'Brien of permitting each worker to specify two or more different work activities that the worker plans to perform during different time periods of the same workday as recited in claim 1. There is no disclosure or suggestion therein of a worker being able to specify, for example, two or more different activities during different time periods within a particular one of these shift assignments.
- 3) There is no disclosure or suggestion in Dellevi et al., of a forecasted service level or any comparison to such a level.
- 4) Moseley et al., does not disclose or suggest selecting work activities from a list of work activities as claimed.

- 5) Appellant traverses the taking of Official notice and respectfully request documentary evidence.

Claims 2 and 22

- 6) Appellant traverses the taking of Official Notice and respectfully requests that documentary evidence be provided to support the contentions in the office action with respect to these job activities in the context of the claimed resource management features.

Claims 4 and 23

- 7) Appellant traverses the taking of Official Notice and respectfully requests that documentary evidence be provided to support the contentions in the office action with respect to communicating data indicative of remaining vacation time in the context of the claimed resource management system.

Claims 6 and 24

- 8) Appellant traverses the taking of Official Notice and respectfully requests that documentary evidence be provided to support the contentions in the office action with respect to communicating data indicative of remaining sick time in the context of the claimed resource management system.

Claim 8

- 9) That the office action essentially takes the position that this would have been obvious because it is desirable.

Claims 13 and 32

- 10) There is no disclosure or suggestion of a graphical display as recited in claims 13 and 32.

Claim 25

- 11) There is no disclosure of a worker generating a default work plan, much less creating a new plan by modifying such a default plan.

Claim 30

- 12) O'Brien neither discloses nor suggests the claimed real time module.

Claim 37

- 13) O'Brien neither discloses nor suggests the claimed current day activity monitor module.

Claim 38

- 14) The applied references do not disclose or suggest the claimed current day activity monitor and consequently these references are also deficient with respect to such a module generating the graphical displays of claim 38.

Claim 39

- 15) The referenced portions of O'Brien relate to forecasted workloads and provide no disclosure or suggestion whatsoever of comparing a service level of current activities with a service level provided by workers currently engaged in these activities.

Claim 40

- 16) The applied references do not disclose or suggest determined a difference as claimed in claim 39 and consequently cannot disclose or suggest taking action(s) based on such a difference.

Claim 41

- 17) None of the applied references contemplate instructing workers to change their current activity. The portions of O'Brien referenced in the office action as allegedly disclosing this feature at best deal with changing a future schedule of workers, not a current activity of the workers.

In response to argument 1. Examiner respectfully disagrees. O'Brien discloses that each worker enters information specifying availability and shift requests (i.e. when a worker wants to work a shift), leave requests (when a worker wants to take leave, such as days off), etc. for time periods during one or more workdays. Leave requests, shift request, etc. are all activities specified by the user, in the broadest reasonable interpretation of the term activity. See at least column 2, lines 15-35, column 4, lines 10-26 and 45-65, column 7, lines 1-10 and 17-35, and column 8, lines 38-52. Examiner points out that claims 3, 5, and 21 support Examiner's interpretation of the term activity. These claims state that activities include work activities, vacation activities, and sick time. Therefore, in claim 1, for example, an employee entering the activities of working (i.e. available and wanting to perform a shift) or taking leave for various days and time periods

satisfies the limitation of allowing "each worker to specify, for each of a plurality of different time periods during each of one or more workdays, one of a plurality of different activities that the worker plans to perform during that time period", since a worker is specifying an activity (i.e. leave) for time periods on one or more days. A scheduling engine (or work plan builder) builds an optimal schedule using the information input by the workers over the network and using the forecast information. Therefore, the activities specified by the workers are displayed as illustrated in Figure 2A (e.g., Day 1 is off for Sam) and Figure 2B. Further, shift swapping does involve specifying particular activities during a workday because, instead of starting in a particular time to start an activity, the worker will start in another time, therefore all his/her activities will start and end in different hours as illustrated in Figure 2B, for example if one worker start an 11:00 am, his/her lunch time e.g., a particular activity, will start at 2:30 pm, by doing a shift swapping and starting at 8:00am his/her lunch time will start at 11:30 am, therefore lunch time is specified during a work day.

In response to argument 2. Appellant's argument against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). O'Brien in view of Dellevi et al., further in view of Moseley et al., does teach permitting each worker to specify two or more different work activities that the worker plans to perform during different

times periods of the same workday, see pages 783-6, 787-8, wherein outlook has a function used to schedule an individual's time and helps the individual manage appointments, events, tasks, and meetings. The calendar shows different time periods during each of multiple workdays. The individual is able to enter what he/she plans on performing during time periods of the day. The worker can specify different work activities and tasks, such as meetings, appointments, finish reports, etc. The worker is able to enter any subject/title for the activity, meeting, or task that he/she chooses. See page 797 and figure 35.14, wherein the activities includes a time when the worker is out of the office. See page 8, 788, 798, and figures 35.5 and 35.11, wherein the programs of outlook are office programs and thus are stored in memory). Further, O'Brien discloses developing a work plan for workers who perform various activities at various time periods, where the employee can request the activities of shifts, vacation, etc. in this schedule. Moseley et al. discloses a scheduling program that helps workers or individuals manage their time by placing work activities (i.e. appointments, events, tasks, and meetings) onto the schedule to keep track of these items. It would have been obvious to one of ordinary skill in the art at the time of the invention to include at least two work activities of Moseley et al. in the shifts on the schedule of O'Brien in order to more efficiently organize a schedule, enabling an individual to more effectively keep track of increasing complicated schedule. See page 783.

In response to argument 3. Examiner respectfully disagrees. Dellevi et al. discloses comparing a service level forecasted to be needed for different work activities and a service level corresponding to the workers that plan to engage in these different work activities as specified in the work plans and permitting changes to the work activities specified in the work plans for one or more workers based on the comparing (See column 1, lines 55-65, column 2, lines 18-30, column 3, lines 40-57, and column 6, lines 5-20, wherein a performance level for work anticipated to be needed for work area functions are, defined and wherein workers has associated with them Employee Training Records .that coincide with the performance level forecasts. Changes to the work activities (and the workers who are supposed to perform the work activities) are allowed based on comparing workers levels with the activity's levels).

In response to arguments 4 and 5. Appellant's argument against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In addition, Examiner took Official Notice that is old and well known in graphical user interface art and to one of the ordinary skill in the art to display a list (e.g., a drop-down widget) with a plurality of choices (e.g., work activities) as evidenced by Amin et al., (US 6, 208,340 B1) in Figures 3 and 4 which they illustrates a drop-down widget that allow a user to select multiple choices from the drop down list.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine O'Brien, Dellevi et al., and Moseley with the old and well-known practice of displaying a list (e.g., a drop-down widget) with a plurality of choices (e.g., work activities) thereby giving the predictable result of enabling a user (e.g., a worker) through a user friendly environment to select multiple choices of two or more different work activities.

Amin et al., (US 6,208,340 B1) provides documentary evidence that a drop-down widget (e.g., a list) allow a user to select multiple choices (e.g., work activities) from the drop down list (Figures 3 and 4).

In response to argument 6 and citing MPEP Section 2144.03, Examiner respectfully disagrees. It is noted that the official notice statement originally made in the office action mailed 5 October 2006, were not properly traversed in the response submitted 5 November 2007, thereby the determination has been made that the limitations under Official Notice are taken as admitted prior art.

In response to arguments 7 and 8 and citing MPEP Section 2144.03, Examiner respectfully disagrees. It is noted that the official notice statement originally made in the office action mailed January 23, 2008, were not properly traversed in the response submitted July 23, 2008, thereby the determination has been made that the limitations under Official Notice are taken as admitted prior art.

In response to arguments 6, 7 and 8. Please see Ex parte ROSE MARY FARENDEN, Appeal no. 2007-0611, pages 8 and 10: "The Examiner may take notice of facts or common knowledge in the art which are capable of such instant

and unquestionable demonstration as to defy dispute. *In re Ahlert*, 424 F.2d 1088, 1091, 165 USPQ 418, 420 (CCPA 1970). If Appellant fails to challenge the Examiner's notice and it is clear that he has been given ample opportunity to make such challenge, the Examiner's finding will be considered conclusive. *Id.* at 1091-92, 165 USPQ at 421. To challenge the Examiner's notice, Appellant must present evidence to the contrary. *Compare In re Knapp-Monarch Co.* 296 F.2d 230, 232 USPQ 6, 8 (CCPA 1961) (considering challenge to taking of judicial notice by Trademark Trial and Appeal Board). Further, "[i]f Appellant fails to challenge the Examiner's notice and it is clear that he has been given ample opportunity to make such challenge, the Examiner's finding will be considered conclusive. *In re Ahlert*, 424, F.2d 1088, 1091, 165 USPQ 418, 421 (CCPA 1970). To challenge the Examiner's notice, Appellant must present evidence to the contrary. *Compare In re Knapp-Monarch Co.* 296 F.2d 230, 232 132 USPQ 6, 8 (CCPA 1961) (considering challenge to taking of judicial notice by Trademark Trial and Appeal Board). In the present case, Appellant does not present any evidence or make any assertions rebutting the Examiner's statements, but merely asserts that the Examiner has not provided any factual evidence. Accordingly, even if Appellant's statements were considered timely, Appellant still fails to properly challenge the Examiner's statements."

In response to argument 9. Examiner respectfully disagrees. O'Brien teaches a resource management system wherein said work plan builder module is

configured to generate and send messages to workers and to generate a work plan using data input by the worker by the time of the generation (See at least figures 2, 2A, 2B, and 5, column 2, lines 15-35 and 64-67, column 4, lines 10-26 and 45-65, column 6, lines 50-67, column 7, lines 1 - 10 and 17-35, and column 8, lines 38-52, wherein messages and notifications are sent to workers and wherein the work plan is generated using data entered and stored by the workers before the building of the schedule). However, none of O'Brien, Dellevi et al, or Moseley et al. expressly disclose sending the notification if the worker does not specify a plan by a work plan deadline.

Moseley et al, Dellevi et al., and O'Brien are combinable for the reasons set forth above. Further, O'Brien discloses a computer-based tool wherein messages and notifications are sent to workers and wherein a work plan is generated using data entered and stored by the workers before the building of the schedule. It is well known that an employee must specify to an employer his/her work plans by a particular deadline. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to send the worker a message if the worker did not specify a plan by a work plan deadline in order to more efficiently create schedules by using the most accurate information so revisions need not occur. See at least column 1, lines 45-67, column 2, lines 1-32, and column 6, lines 52-67.

Further, the rejection does not discuss "desirability".

In response to argument 10. Examiner respectfully disagrees. O'Brien discloses a resource management system wherein said forecast module is configured to generate a graphical display indicative of the comparison of the work plans and the forecasted needs (See column 1, lines 45-57: "[t]he system and method assign the employees to shifts to fill a schedule template while complying with any business and employee constraints that have been specified" , where "[t]he system also can forecast workloads and incorporate the forecast results into the schedule template to generate a more efficient schedule", column 3, lines 25-40: "information can be used to forecast workload demand and propose and/or initiate any modification to be schedule", column 5, lines 5-30 and 48-67, and column 6, lines 1-20, which discloses graphical displays indicative of the comparison performed of the plan and the needs).

In response to argument 11. Examiner respectfully disagrees. O'Brien teaches wherein the work plan builder module enables each worker to generate a default work plan that specifies, for each of a plurality of different time periods during each of one or more workdays, one of a plurality of different activities that the worker plans to engage in during that time period and to generate a new work plan by modifying the default work plan (See figures 2, 2A, 2B, and 5, column 2, lines 15-35: "[a] schedule is constructed in accordance with the processed schedule requirements" where "[t]he host server receives further information through the distributed network from one or more of the second client side machines and revises the schedule in accordance with any such further

information. The revised schedule is then made accessible to the first client side machine as well as one or more of effecting client side machines.”, column 4, lines 10-26 and 45-65, column 7, lines 1-10 and 17-35, and column 8, lines 38-52, wherein the worker specifies his/her parameters for the work schedule to include working, on leave, etc. The template schedule assumes working if not otherwise indicated).

In response to argument 12. Examiner respectfully disagrees. O'Brien disclose wherein the one or more computer-executable modules further include a real-time status module for providing real-time statistics regarding activities that the workers are currently engaged in (See column 5, lines 10-37 and 50-67, column 6, lines 1-25: The optimal shift patterns 430 and staffing requirements 440 are incorporated into the schedule requirements, and more particularly into the business parameters, and then processed by the processing unit 158 to generate a revised schedule 450 . The revised schedule reflects the optimizations derived from the workload forecast based on the extrinsic data" and 44-65: describe a bulletin system, wherein the system tracks activity at a current time (workload) and compares it to the current schedule).

In response to argument 13. Examiner respectfully disagrees. O'Brien teaches wherein the one or more computer-executable modules further include a current day activity monitor module for providing a real-time comparison between a service level corresponding to current real-time work activities and a service level provided by those workers engaged in these work activities during the current

time period (See column 5, lines 10-37 and 50-67, column 6, lines 1-25: The optimal shift patterns 430 and staffing requirements 440 are incorporated into the schedule requirements, and more particularly into the business parameters, and then processed by the processing unit 158 to generate a revised schedule 450 . The revised schedule reflects the optimizations derived from the workload forecast based on the extrinsic data" and 44-65: describe a bulletin system, wherein the system tracks activity at a current time (workload) and compares it to the current schedule).

In response to argument 14. Examiner respectfully disagrees. O'Brien wherein the current day activity module is configured to generate one or more graphical displays indicative of the comparison (See at least figure 2-2B, 1 column 1, lines 45-57: "[t]he system and method assign the employees to shifts to fill a schedule template while complying with any business and employee constraints that have been specified" , where "[t]he system also can forecast workloads and incorporate the forecast results into the schedule template to generate a more efficient schedule", column 5, lines 5-37 and 48-67, and column 6, lines 1-40 and 44-65, wherein a revised schedule is determined for the current day and displayed to the user).

In response to argument 15. Examiner respectfully disagrees. O'Brien discloses wherein the current day activity monitor module is configured to determine when a difference between the service level corresponding to current real-time work activities and the service level provided by those workers engaged

in these work activities during the current time period exceeds a predetermined level (See column 5, lines 10- 37: "[b]y correlating such extrinsic factors to workload requirements, the accuracy of the workload forecast is improved and schedules can be optimized" and 50-67" the forecast examines such data and determines for a given schedule period whether the current workforce is adequate across all shifts to meet forecasted demand, whether the current workforce is inadequate to meet forecasted demand, or whether the current workforce exceeds the forecasted demand", column 6, lines 1-25 and 44-65).

In response to argument 16. Examiner respectfully disagrees. O'Brien teaches wherein the current day activity monitor module is further configured to automatically perform one or more actions if the difference exceeds the predetermined level (See column 5, lines 10-37: "[b]y correlating such extrinsic factors to workload requirements, the accuracy of the workload forecast is improved and schedules can be optimized" and 50-67" the forecast examines such data and determines for a given schedule period whether the current workforce is adequate across all shifts to meet forecasted demand, whether the current workforce is inadequate to meet forecasted demand, or whether the current workforce exceeds the forecasted demand. Based on the forecasted workload, the forecasting module generates optimal shift patterns 430 and optimal staffing requirements 440 which are tailored to meet and perhaps exceed the forecasted workload across all shifts in a given schedule period. Shift patterns include the start and end times of various shifts", column 6, lines 1-25

and 44-65, wherein the system is configured to regenerate a schedule is the level is exceeded).

In response to argument 17. Examiner respectfully disagrees. O'Brien discloses wherein one or more actions includes instructing one or more workers to change the activity in which these workers are currently engaged (See column 5, lines 10-37 and 50-67, column 6, lines 1-25 "[t]he revised schedule reflects the optimizations derived from the workload forecast based on the extrinsic data" and 44-67: describes a bulleting system, and column 7, lines 1-10: "[f]rom the viewpoint of the employee using the system, there are a number of features that the employee can use to participate in scheduling. An employee has several options made available for selection from a menu 530. The employee can view a schedule 540, enter shift request 550, enter a leave request 560, enter a swap request 570, send a bulletin 580, or update his or her availability 590", wherein the worker is told to change the activity of the schedule).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Nadja Chong/

Examiner, Art Unit 3623

/Beth V. Boswell/

Art Unit: 3623

Supervisory Patent Examiner, Art Unit 3623

Conferees:

/Beth V. Boswell/

Supervisory Patent Examiner, Art Unit 3623

Vincent Millin /vm/

Appeals Conference Specialist